

REMARKS

This paper responds to the Final Office Action dated May 3, 2011 and is submitted together with an Request for Continued Examination.

In the Office Action, the Examiner has rejected all pending claims under 35 USC 103(a) as follows: claims 7-11, 13-16 and 25 stand rejected as obvious over US 2003/0064758 ("Mizuta") in view of US 2002/0006815 ("Finke-Anlauff") in view of US 2002/0061770 ("Ozaki") in view of USP 4,845,772 ("Metroka"); claims 1-6 and 17-24 stand rejected as obvious over Mizuta in view of Finke-Anlauff in view of USP 6839101 ("Shima") in view of Ozaki in view of Metroka; and claim 12 stands rejected as obvious over Mizuta in view of Finke-Anlauff in view of Ozaki in view of Metroka as applied to claim 7 and further in view of Shima.

In rejecting the claims, the Examiner relies on Metroka as disclosing what the Examiner acknowledges is lacking in Mizuta, Finke-Anlauff and Ozaki, namely "the state of the device during its transition from fully closed to fully open." See Office Action at 2. The Examiner asserts "Metroka cures this deficiency by defining a set point during the transition from fully opened to fully closed in which the device goes from opened to closed. Such a teaching when applied to Ozaki in view of Anlauff would allow the device to remain in the opened state during at least part of the transition to the fully closed state. The auxiliary keys would therefore remain off during at least part of the transition to the closed state." See Office Action at 2. Applicant respectfully disagrees.

As previously explained, in Metroka, a cell phone is disclosed having a structure that makes the keypad (110) inoperative when the flip element (104) is fully closed and when the an angle between the body (102) and the flip element reaches 45 degree (See column 3, lines 1-32). The main purpose of Metroka is to prevent unwanted operation of dial and control button

mechanisms by foreign objects which may be trapped between the mechanisms and a cover. (See column 1, lines 60 to 63). That is, the keypad (110) is required to be located in a portion between the body (102) and the flip (104), and the keypad (110) should be inoperative (“on-hook”) both when the flip (104) is fully closed and when the an angle between the body (102) and the flip (104) reaches 45 degree. In the off-hook state, the keypad 110 is active. In other words, the on-hook state is activated before the portable telephone is fully closed. The Examiner disregards the stated purpose of the operation of the cell phone in Metroka, and using hindsight relies on Metroka in an attempt to construct the claimed device and render the claims obvious.

That is, citing partially that keypad (110) becomes inoperative when an angle between the body (102) and the flip (104) reaches 45 degree while ignoring the feature that keypad (110) is inoperative when the flip (104) is fully closed is unreasonable because both features are necessary for the purpose of Metroka. And the purpose of Metroka is different from the purpose of the claimed invention. The Examiner provides no motivation or teaching for one of ordinary skill in the art to combine the teachings of Metroka, as discussed, with the devices in Mizuta, Ozaki and Finke-Anlauff. Indeed, there is no motivation in any of the cited references or otherwise that would cause or suggest to one of ordinary skill in the art to incorporate the fail safe mechanism in Metroka, i.e., making the keypad inoperative in less than the fully closed position to avoid unintended operation of the keypad by a foreign object, to the portable devices shown in Mizuta, Ozaki and Finke-Anlauff.

Specifically, the Examiner asserts that Metroka could be combined with Ozaki and Finke-Anlauff to render the claims obvious. However, Ozaki does not even disclose auxiliary keys and there would be no reason to incorporate the Metroka’s fail-safe design in Ozaki or to render any of the keys inoperative during the transition between opened and closed.

The combination of Metroka and Finke-Anlauff is equally ineffective. In Finke-Anlauff, there is no disclosure suggesting that the keypad 9 is inoperative other than in the open position.

Additionally, there is no teaching or suggestion to combine the fail-safe design in Metroka with the device shown in Finke-Anlauff. Moreover, the Examiner has provided no reason why one of ordinary skill in the art would make such a combination to arrive at the claimed device.

Nevertheless, Applicant has amended the current application to cancel all pending independent claims, and submit new independent claim 26. Currently pending are claims 3-6, 17-23 and 26. Unlike the prior art, new independent claim 26 recites a “lock control section for rendering a part or all of said auxiliary operation section, operation in the closed state, and inoperative in the opened state **and** a transition state.” Applicant’s amendment does not introduce any new matter. For example, Applicant’s published application explains:

“Further, at the step S601, when it is determined that the portable terminal unit 100 is in other states than the closed state, that is, the **opened state or the turning state, the lock control section 4a shuts off the electric connection of the auxiliary operation section 103 thereby to render the operation of the auxiliary operation section 3 inoperative (S604).**” US 2004/0235540 at [0052].

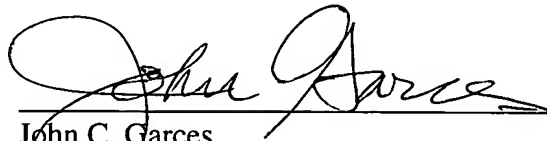
None of the cited art, alone or in combination disclose such a lock control section. Thus, Metroka alone or in combination with the other cited prior art, fails to teach or suggest the claimed device having a lock control section wherein both in the opened state and transition state between opened and closed the auxiliary operation section is inoperative.

For the reasons set forth above, Applicant respectfully submits that this patent application, including all pending claims, is in condition for allowance. Reconsideration and prompt allowance of this application are respectfully requested. The Examiner is urged to telephone Applicant's undersigned counsel at the number noted below if it will advance the

prosecution of this application, or with any suggestion to resolve any condition that would impede allowance. In the event that any extension of time is required, Applicant petitions for that extension of time required to make this response timely.

Kindly charge any additional fee, including extension fees, or credit any surplus, to Deposit Account No. 50-0675, Order No. 848075-0059.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John C. Garces", is written over a horizontal line.

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